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THE STRAITS OF MALACCA AND CHALLENGES AHEAD:
THE U.S. PERSPECTIVE

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While maritime crime is hardly a new phenomenon, the recent surge of interest in how to deal with it cooperatively and multilaterally certainly is; and it is very welcome. Cooperative maritime security has been debated and discussed at the senior-most levels of government; it has been the focus of attention in multilateral groupings such as ASEAN and the ARF; and it has increasingly been the focus of seminars, conferences and regional workshops, including the ARF maritime security workshop in Kuala Lumpur in September, the Malaysian Maritime Institute conference last month, and of course this distinguished gathering.

So why, all of a sudden, all this attention? As you might imagine, there is no single answer, but rather an aggregate reflecting concerns by a wide range of individuals, agencies, organizations and governments about an equally wide range of issues from the environment to transnational crime -- actual or potential -- occurring in the maritime domain. Increasingly, too, there is a realization that no single country can deal with these concerns alone.

This single fact will distinguish the effort to resolve the problems of the 21st century from those of the 20th. Given the global revolutions in communications and transportation, the 21st century will be the century of transnational issues. And for all except the hopelessly optimistic, it will probably also be the century of transnational problems.

The challenge before our foreign and security policy leaders will be to make the 21st century also the century of transnational solutions.

Whether it's terrorism, HIV/AIDS, SARS, Avian Flu, piracy, armed robbery at sea, smuggling, or trafficking in persons, narcotics, or weapons -- just to name a few -- we can already see the absolute

necessity for governments to work together, multilaterally, to address them.

In Southeast Asia, there is increasing evidence to suggest that governments are meeting this challenge – including in the maritime domain. Ensuring the safety and security of commercial and other shipping -- against any kind of transnational maritime crime -- presents formidable challenges to those who bear the sovereign and primary responsibility for its protection.

In the Malacca straits, for example, we have seen a renewed effort to deter maritime transnational crime through the establishment of coordinated “MALSINDO” patrols by Indonesia, Singapore and Malaysia. Hot lines have been set up, and possibly even limited arrangements for “hot pursuit” that build on earlier efforts.

This is a very welcome and timely development – a natural human response to a mutual threat – maritime crime -- even if perceptions of its specific nature, whether smuggling, trafficking or even terrorism -- vary by country.

In my current job, I find myself constantly trying to see the maritime security picture in the Malacca Straits the way my colleagues from Malaysia, Indonesia, and Singapore see it.

The first benefit of this approach is an equally constant reminder that the constraints and imperatives that drive maritime security efforts in these places are exceedingly complex. Another benefit, though, is that it yields insights and ideas about ways to move forward cooperatively – the old fashioned way – to find solutions that might meet everyone’s needs.

It is clear to me that the littoral powers of the Malacca Strait share a recognition that the seas and the resources that flow through them, including through their narrow chokepoints, must be secure, and that the potential costs of not securing them are no longer bilateral or even unilateral, they are regional and global. So there is a regional and global perspective that you’d expect from sophisticated and cosmopolitan states.

And rightly so. Rates of piracy and armed robbery at sea have increased significantly in the straits in recent years, but even more importantly, so has the role of the Malacca/Singapore straits as one of the world’s critical maritime superhighways. In 2005, slightly more than half the world’s oil, as well as some 2,500 LNG/LPG tankers – in all, well over 71,000 ships accounting for about 1/3 of the world’s total trade

-- will navigate this narrow passage and must eventually squeeze through the Phillip Channel, at places only 1.5 miles wide, before entering the open waters of the South China Sea.

At the same time, the Malacca Straits littoral states are struggling to deal with serious transnational crimes that are less regional or global than they are bilateral. Indonesia estimates it is losing some \$600 million each year due to smuggling operations in the Singapore Straits *alone*. Malaysia has detained tens of thousands of illegal immigrants in just the first half of this year.

Seen from this perspective, it is easy to understand why individual states may define the principal maritime threat in the Malacca Straits in different ways – whether as piracy, or armed robbery at sea, or smuggling, or trafficking. And also easy to see why there might be a reaction if an outside power such as the United States defines the principal threat differently, that is, as solely a terrorism threat.

The good news is that we don't. The better news is that even if we disagree on the exact nature of the problem, it should be possible to agree on solutions that make these disagreements manageable, perhaps even moot. And that's the direction we're taking.

I used the word "we" rather than "they." That's because key user states also have obligations, though not sovereign ones. Given the growing volume of traffic and the growing stakes of a secure Malacca Strait for the regional and global economy, it does not seem either fair or reasonable that the heavy burden for maritime security in the Malacca Straits should fall exclusively on the shoulders of the sovereign littoral states. While observing international law and the unquestioned sovereign rights of the littoral states, there should be a way for other stakeholders to lend a hand, in keeping with the logic underlying UNCLOS Article 43.

The United States is prepared to do this, but only with the consent, support and cooperation of the littoral states.

What the United States has been proposing is a range of capacity-building programs under the rubric of RMSI – the Regional Maritime Security Initiative. We hope that others, too, will contribute, as the Government of Japan and others already are.

While we have briefed regional governments about RMSI on several occasions in the ARF context, there is still some confusion and some misapprehension about what RMSI is, and even about its relationship to other USG maritime initiatives.

So let me quickly address what RMSI is **not**:

- RMSI is not part of PSI – the Proliferation Security Initiative – and never has been. RMSI is not “PSI in SE Asia.” It is true that these two efforts share some common elements – including information sharing and, on some occasions – possibly -- at the other end of the process, the need for effective “interdiction” capabilities; but that’s about the extent of the overlap.
 - PSI is a global effort focused on Weapons of Mass Destruction and related material, transported illegally on land, sea, or in the air.
 - RMSI, by contrast, is a regional capacity-building effort focused on transnational maritime crime. The skills and capabilities RMSI will help develop can be effective against a wide range of problems – including terrorism but equally against piracy, armed robbery at sea, smuggling, or trafficking. Littoral states can use these capabilities anyway they want, anytime they want. We just hope they will use them in something as close to “seamless” coordination with their neighbors as possible.
- RMSI is not a stalking horse for an enhanced US Navy presence in the Malacca straits or anywhere else.
- RMSI is also not a vehicle to promote US Navy patrols in the straits; certainly, coordinated patrols operated by the littoral states can help build security in the Malacca Strait, but they are not an integral part of the RMSI vision, as you will see in a moment; that said, RMSI capabilities can stretch limited patrolling assets such as those underway with MALSINDO, and make them more efficient. But patrols alone may not be sufficient to meet the security challenge in the straits.
- RMSI will not – cannot -- challenge the sovereignty of any state. The decision to share information and act on a potential threat must be a voluntary and sovereign decision. We can help provide tools that make information gathering more effective, and information sharing more efficient, but the decision on whether to use these efficiencies belongs to the participants.
- RMSI activities will not be undertaken outside of existing international and domestic law.

With that out of the way, let me turn to the more interesting topic of what RMSI **is**.

- First, the focus of the RMSI effort will be primarily on law enforcement agencies rather than naval forces.
- Operationally, the RMSI concept is based on five “elements” we see as being essential to building an effective, multilateral approach to maritime security, including in the Malacca Strait.
 - After the September ARF maritime security workshop in KL, it seems clear many of the 22 ARF nations, including the 123 law enforcement officials and diplomats who attended, already agree that these are the critical capabilities for building cooperative maritime security.
 - We can help interested littoral states develop these capabilities. The five elements are:

1. **Increased Situational Awareness:** In order to deal with a maritime problem, a state must first be able to see it. The objective is to develop a clear picture of the maritime space and what is in it, sometimes called a common operating picture, that can be shared with partners.

This is a technology element. But technology alone cannot enhance security in the Malacca Straits. Technology and equipment are only as good as the human systems they support. To maximize value, upgrades in technology and equipment must be linked to upgrades in human systems. This takes us to the three remaining RMSI “elements.”

2. **Inter-agency and State-to-State**

Communication/Cooperation: Once a problem can be seen, law enforcement agencies within a country must be able to communicate and share the information quickly and effectively; in many cases, especially in territorial waters such as those in the Malacca Strait, agencies in one state must be able to communicate just as effectively with counterpart agencies in neighboring states;

3. **Authorities:** Even with the most efficient inter-state communication, a potential threat may be difficult to address in

the absence of agreements that allow states to act. Expanding the scope and capacity of international cooperation may require consideration of new bilateral or multilateral arrangements, legal or otherwise, that can help deny to transnational criminals the easy sanctuary provided by operating with impunity across national boundaries.

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4. **Responsive decision-making architecture:** If effective inter-state communication is in place, and the legal or other authorities allowing action are established, effective responses to maritime threats will still depend on decision-making architecture. To put it a bit bluntly, someone must be empowered to make a decision to act on a threat or potential threat, in real time, and each cooperating state must acknowledge, and know in advance, who that person is. RMSI is designed not just for crisis management, but for crisis prevention. Crisis prevention in narrow waters is a difficult proposition, with extremely short lead times; success may depend on the speed at which a country or countries can decide to act.

5. Other important elements should also be mentioned as corollary to these four basic elements, including, for example, **interdiction** capabilities and the **prosecution** of criminals.

- Whether a state defines its maritime security threat in terms of piracy, smuggling, armed robbery at sea, or potential acts of terrorism, if it has the [four?] five essential elements of maritime security in place, it will be far more capable not only of reacting to a crisis, but also of preventing one in the first place.

At the end of the day, as with states, so with methodologies: no single approach to maritime security can be 100 percent effective. Security must be layered. Patrols provide a psychological and actual deterrent function by limiting the parameters in which maritime criminals can operate, and also by adding an element of uncertainty to their planning; effective, land-based law enforcement and intelligence activity can play a major role in reducing piracy and armed robbery against ships, given that these criminals spend 98 percent of their time on land; industry-enforced security procedures for ships transiting the Straits can play a vital role; new international requirements, such as those for IMO's International Ship and Port Facility Security (ISPS) Code and the new SOLAS Convention chapter XI-2 on Special Measures to Enhance Maritime Security will contribute significantly to overall safety and security of traffic in the Straits, as elsewhere.

A complete operating picture of the Malacca Straits that is shared between participating states, their ability to share intelligence and information that builds on this picture, and to react effectively to threats that appear in this picture, would provide an enormous additional advantage to those who bear primary responsibility for the security of those Straits.

The United States is prepared to work with interested Malacca Strait littorals to build the capacity, not only to generate this kind of common picture, but also the capacity to maximize its value in deterring and preventing transnational crime in one of the world's most important waterways.